S.B.Civil Misc. Appeal No.747/2006

Surendra Kumar vs. Yogendra Kumar and others.

Date : 13.7.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. BR Mehta, for the appellant.

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At the request of learned counsel for the appellant, this appeal is finally heard and disposed of.

According to the appellant, Locker No.28 was in the name of deceased Sushila Devi and the appellant. The plaintiff/ respondent filed a suit for partition wherein injunction has been granted by the trial court by order dated 28.2.2006 restraining the appellant from operating the said locker of Central Bank of India Branch Mundwa.

According to learned counsel for the appellant, in the locker, there are fixed deposit receipts and they will mature and if those FDRs will not be renewed, both the parties will suffer loss.

The grievance of the appellant appears to be just and in case, the FDRs lying in the locker are matured and they are required to be renewed, otherwise both the parties will suffer loss.

So far as the order passed by the court below restraining the appellant – one of the parties to the suit from operating the locker is concerned, I do not find any

illegality but so far as how to manage the property for which injunction order is passed, is concerned, appropriate order can be passed by the court below. For this, the appellant can move proper application pointing out as to which FDR is required to be renewed and which money matured and is required to be re-invested. On moving the application, certainly the court below will pass appropriate order after hearing all the parties to the suit because that will be in the interest of all the parties.

The court below will be free to see how the money can be protected properly and invested in the Nationalised Bank or any security.

With the aforesaid observations, this appeal is disposed of.

(PRAKASH TATIA), J.

S.Phophaliya